IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NOs : 24256 and 24288 of 2004

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WRIT PETITION NO : 24256 of 2004

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Between:

Smt. M. Zakirabi, W/o. M. Zakir Hussain,
R/o. Jupadu Banglow village and Mandal, Kurnool District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Kurnool.
2 The Mandal Revenue Officer, Jupadu Banglow Mandal, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction, preferable to the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the impugned suspension orders in Rc.B. 1618/04 dt. 2-12-2004 on untenable and unwarranted grounds by circumventing and defeating the orders passed by this Hon'ble Court in favour of the petitioner in W.P.No. 21815/2004, as prima facie illegal, highly unwaranted violative of Article 14, 19 and 21 of the Constitution of India and consequently set aside the above stated impugned proceedings of the 1st respondent with a direction to the respondents to continue the petitioner as Fair Price Shop dealer to distribute the commodities for shop No.18 of Jupadu Banglow Village and Mandal, Kurnool District and pass such other order or orders.

WRIT PETITION NO : 24288 of 2004

Between:

G.ChenchemmaW/o.G.Veer Swamy
Japadu Banglow Village &Mandal, Kurnool Dist.

..... PETITIONER

AND

1 The Revenue Divisional Officer Kurnool.
2 The Mandal Revenue Officer Jupadu Banglow Mandal, Kurnool District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, preferable to the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the impugned suspension order in Rc.B 1618/04 dt 2-12-2004 on untenable and unwarrranted grounds by circumventing and defeating the orders passed by this Hon'ble court in favour of the petitioner in WP 21842/2004, as prima facie illegal, highly unwarranted violative of Article, 14,19,21 of the constitution of India and consequently set aside the above stated impugned proceedings of the lat respondent with a direction to the respondents to continue the petitioner as Fair Price Shop dealer to distribute the commodities for shop No.17 of Jupadu Banglow village and Mandal, Kurnool Dist and pass such other order or orders.

Counsel for the Petitioner:MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

COMMON ORDER:

The petitioners are the dealers of fair price shops of Japadu Banglow Village and Mandal, Kurnool District. Their authorizations were suspended by the Revenue Divisional Officer, through orders, dated 02.12.2004, on the allegation that the they failed to lift the essential commodities for the past six months and the distribution of essential commodities is seriously hampered. They referred to the proceedings, which have taken place on earlier occasion, and ultimately seek intervention of this Court.

Heard learned counsel for the petitioners and learned Government Pleader for Civil Supplies.

The petitioners approached this Court by filing two separate writ petitions alleging that while their authorizations are subsisting, the respondents are not releasing the essential commodities. On 29.11.2004, the writ petitions were disposed of by this Court, directing that the respondents shall supply the essential commodities to the petitioners, as long as their authorizations are subsisting.

The Revenue Divisional Officer suspended the authorizations of the petitioners through his orders, dated 02.12.2004. They are said to have been served on the petitioners on 18.12.2004. The only allegation against the petitioners is that they did not lift the essential commodities for the past six months.

The action of the Revenue Divisional officer is based upon a representation said to have been forwarded by the Mandal Revenue Officer in the month of August, 2004. It is not known as to what remedial steps have been taken, in the meanwhile. Further, the very fact that the petitioners had to approach this Court complaining that the Mandal Revenue Officer is not receiving the Demand Drafts for the supply of the essential commodities needs to be taken into account.

Though there is a remedy of appeal against the order of suspension, this Court is of

the view that having regard to the nature of allegations against the petitioners, the matter needs to be given a quietus at the stage of the appointing authority i.e., Revenue Divisional Officer.

Hence, the writ petition is disposed of, directing that-

a. The Revenue Divisional Officer shall enquire into the allegations of the petitioners that the Demand Drafts offered by them were not received by the Mandal Revenue Officer for the last several months and record a finding as to whether there was any default on the part of the petitioners in lifting the essential commodities.

b. Depending on the finding recorded on the above aspect, the Revenue Divisional Officer shall take further steps either to drop the proceedings against the petitioners or to take any action.

c. Till such steps are taken, the petitioners shall be continued as fair price shop dealers and the orders of suspension passed against them shall remain stayed.

d. There shall be no order as to costs.

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23.02.2005

Note: Issue C.C. in two days.

(B/o)

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To

1 The Revenue Divisional Officer, Kurnool.
2 The Mandal Revenue Officer Jupadu Banglow Mandal, Kurnool District

3 2 CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad.

4 2 CD copies.